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10 UNITED STATES BANKRUPTCY COURT  
11 EASTERN DISTRICT OF CALIFORNIA

12 In Re: ) Case No. 10-36150  
13 Karin M Frank )  
14 Debtors ) Chapter 11  
15 \_\_\_\_\_ )  
16 ) Judge: Hon. M. McManus  
17 ) Hearing Date  
18 ) Date: June 6, 2011  
19 ) Time: 10:00 AM  
20 ) Location: Dept A, 501 I St, Ctrm 28,  
21 ) Sacramento, CA

22 **MOTION FOR RELIEF FROM AUTOMATIC STAY**

23 TO THE HON. M. MCMANUS, UNITED STATES BANKRUPTCY JUDGE; THE DEBTOR,  
24 THE CHAPTER 7 TRUSTEE, AND ALL INTERESTED PARTIES:

25 Dimitrios Zahariudakis, ("Movant"), by and through counsel Evan Livingstone, hereby  
26 moves the Court for an Order granting Movant relief from the automatic stay to exercise its  
27 remedies under its Mortgage and Hawaiian law, in order to foreclose upon and sell the Subject  
28 Property located at 110 N Yolo St, Willows, CA, APN: 003-103-013-0 ("Subject Property").  
29 This motion is based upon the following facts and circumstances, as shown by the Declaration of  
30 Dimitrios Zahariudakis and exhibits attached in support thereof:

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2       1. This Court has jurisdiction over this matter pursuant to 11 U.S.C. §§ 361 and 362 of  
3       the United States Bankruptcy Code and Rules 4001, 9013, 9014 of the Federal Rules of  
4       Bankruptcy Procedure. This is a core proceeding under 28 U.S.C. § 157(b)(2).

5       2. Movant is an individual residing in the State of California.

6       3. Karin M Frank (hereinafter, the "Debtor") filed the above captioned Chapter 11 case  
7       on 6/21/2010.

8       4. Debtor in Possession( "Trustee") is the duly appointed and acting Chapter 11 Trustee  
9       in the above-captioned case.

10       5. Movant is the holder of a Promissory Note dated May 8, 2007, in the original principal  
11       sum of \$336,000 ( the “Note”). The Note is secured by a duly perfected Deed of Trust  
12       (Mortgage) over the Subject Property. The Subject Property is legally described in the Deed of  
13       Trust (Mortgage – See attached).

14       6. Pursuant to the terms and conditions of the Note and Deed of Trust, the Debtors are  
15       obligated to make monthly payments in the amount of \$3,360 on the first day of each month.

16       7. Debtor has defaulted under the terms and conditions of the Note and Deed of Trust in  
17       that the Debtor failed to make all monthly payments due, and is delinquent about 36 months.

18       8. According to Debtor's Schedule A filed with the Court, Subject Property is Not  
19       Scheduled.

20       9. According to Debtor's Schedule D the amount due and owing to Movant is not  
21       scheduled. Movant believes the amount due is as of filing date was \$336,000, plus interest.

22       WHEREFORE, Movant prays for an Order as follows:

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1. Granting Movant, its assignees and/or successors in interest immediate relief from the automatic stay pursuant to 11 U.S.C. Section 362 for all purposes necessary under state law, in order to foreclose upon and sell the Subject Property, either judicially or by foreclosure.

2. Granting Movant, its assignees and/or successors in interest immediate relief from the automatic stay pursuant to 11 U.S.C. Section 362 for all purposes necessary under state law, in order to seek a deficiency judgment against debtor personally;

3. In the alternative, if immediate relief is not granted, granting Movant and its successors and assigns adequate protection;

4. Movant further requests that the Court waive or shorten the 14 day waiting period prescribed by Federal Rule of Bankruptcy Procedure, Rule 4001(a)(3);

5. That this Order be binding on the Debtors and the Trustee with respect to any subsequent conversion to another chapter which may affect Movant's interest in the Property;

6. For such other and further relief as this Court deems appropriate.

/s/Evan Livingstone  
Evan Livingstone, Attorney for Movant

## DECLARATION OF MOVANT DIMITRIOS ZAHARIUDAKIS

I Dimitrios Zahariudakis am the holder of the Note in this motion.

I declare under penalty of perjury I have personal knowledge of the facts asserted in this motion, and I declare they are true and correct.

Dated: May 10, 2011 /s/Dimitrios Zahariudakis  
Dimitrios Zahariudakis

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UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF CALIFORNIA

In Re: ) Case No. 10-36150  
Karin M Frank )  
Debtor ) Chapter 11  
 )  
 ) Judge: Hon. M. McManus  
 )  
 ) Date: June 6, 2011  
 ) Time: 10:00 AM  
 ) Location: Dept A, 501 I St, Ctrm 28,  
----- Sacramento, CA

**PROPOSED ORDER ON MOTION FOR RELIEF FROM AUTOMATIC STAY**

On June 6, 2011 at 10:00 AM, in the Courtroom of the Hon. M. McManus of the above-entitled Court, the Motion of Secured Creditor, Dimitrios Zahariudakis, his successors and/or assigns ("Movant"), for Relief From Automatic Stay, came on regularly for hearing. Evan Livingstone, appeared on behalf of Movant. Other appearances were as noted on the record.

Upon review of Movant's Motion, any opposition thereto, having heard oral arguments of counsel, and with good cause appearing therefor,

IT IS HEREBY ORDERED that:

1. Movant is granted immediate relief from the automatic stay to take any and all actions, including but not limited to, foreclosure and sale, to enforce its lien on real property located at 110 N Yolo St, Willows, CA, APN: 003-103-013-0, County of Glenn.

2. Movant is granted immediate relief from the automatic stay to take any and all actions, including but not limited to judicial foreclosure against the real property located at 110 N Yolo St, Willows, CA, APN: 003-103-013-0, County of Glenn, and a deficiency judgment against debtor Karin M Frank personally.

3. That the requirements of Bankruptcy Rule 4001(a)(3), be waived;

\*\*\*END OF ORDER\*\*\*